

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

FILED  
2004 OCT 15 P 4:25

U.S. DISTRICT COURT  
DISTRICT OF MASS

**PAN AMERICAN AIRWAYS CORP.,**

**Plaintiff/Counter-Defendant**

**v.**

**ROBERT E. BARNES**

**Defendant/Counter-Plaintiff**

**Case No. 04-CV-10515JLT**

**MOTION TO STRIKE FACTS 1 THROUGH 5 AND FACT 8 OF PLAINTIFF'S  
STATEMENT OF MATERIAL FACTS AND REQUEST TO FILE REPLY BRIEF TO  
PLAINTIFF'S REPLY TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT.**

NOW COMES Defendant/Counter-Plaintiff, Robert E. Barnes, by and through his attorney, and hereby moves this Court, pursuant to Fed. R. Civ. P. 7(b) and Local Rule 7.1, to strike facts 1 through 5 and fact 8 of Plaintiff's Statement of material facts and asks the court to allow Defendant to file a short (3 page) reply brief.

This motion is supported by Defendant's Memorandum of Law.

Pursuant to Local Rule 7.1(A)(2), counsel hereby certifies that he and counsel for the Plaintiff/Counter-Defendant have conferred and attempted in good faith to resolve or narrow the issue.

Respectfully submitted,

Dated: October 12, 2004

A handwritten signature in cursive script that reads "Peter Piel". The signature is written in black ink and is positioned above a horizontal line.

Peter Piel  
Law Office of Peter Piel  
800 Turnpike Street, Suite 300  
North Andover, MA 01845  
978-794-5513  
BBO # 639070